

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>10/21/2024</u>
--

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
UNITED STATES OF AMERICA	:	AMENDED STIPULATION
	:	AND ORDER AS TO
- v. -	:	<u>SUBSTITUTE ASSETS</u>
NERIK ILYAYEV,	:	23 Cr. 506 (GHW)
Defendant.	:	
-----	X	

WHEREAS, on or about October 3, 2023, NERIK ILYAYEV (the “Defendant”), and another, was charged in one count of a two-count Information, 23 Cr. 506 (GHW) (the “Information”), with conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349 (Count One);

WHEREAS, the Information included a forfeiture allegation as to Count One of the Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), of any and all property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense charged in Count One of the Information;

WHEREAS, on or about October 3, 2023, the Defendant pled guilty to Count One of the Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Information and agreed to forfeit to the United States a sum of money equal to \$6,504,069 in United States currency, representing the proceeds traceable to the offense charged in Count One of the Information;

WHEREAS, on or about October 3, 2023, the Court entered a Consent Preliminary Order of Forfeiture/Money Judgment (D.E. 34), imposing a forfeiture money judgment against the Defendant in the amount of \$6,504,069 in United States currency (the “Money Judgment”),

representing the proceeds traceable to the commission of the offense charged in Count One of the Information that the Defendant personally obtained, for which the Defendant is jointly and severally liable with co-conspirator Mukhiddin Kadirov for \$4,140,624 in United States currency;

WHEREAS, to date the entire Money Judgment entered against the Defendant remains unpaid;

WHEREAS, on or about April 18, 2024, the Court entered a Stipulation and Order as to Substitute Assets (the “Stipulation and Order”) (D.E. 67), wherein the Defendant agreed to sell the following Substitute Assets and remit the full amounts of the net proceeds from the sales of the Substitute Assets to the United States:

- a. 140-72 Burden Crescent, Jamaica, NY 11435;
 - b. 140-76 Burden Crescent, Jamaica, NY 11435; and
 - c. 88-16 63rd Avenue, Rego Park, NY 11374 (the “Rego Park Property”);
- (the “Substitute Assets”);

WHEREAS, pursuant to the Stipulation and Order, the net proceeds from the sales of the Substitute Assets was not to be less than \$1,500,000 in United States currency, and was to be transferred to the United States Marshals Service in full by October 18, 2024, which would have fully satisfied the Defendant’s Money Judgment;

WHEREAS, the Government and the Defendant have agreed to amend the terms of the Stipulation and Order in accordance with the terms set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistance United States Attorney Cecilia Vogel, of counsel, Defendant and his counsel, David M. Eskew, Esq., that:

1. The Defendant will remit the net proceeds from the sale of the Rego Park Property (the “Rego Park Proceeds”) to the United States Marshals Service (the “USMS”) by on or before October 17, 2024 (the “New Payment Deadline”). The Defendant will then have an additional 60 days from the New Payment Deadline, to wit, by on or before December 16, 2024 (the “Final Payment Deadline”) to remit an amount which, together with the Rego Park Proceeds, will equal \$1,500,000 in United States currency (the “Final Payment”).

2. The Defendant will remit the Rego Park Proceeds and the Final Payment pursuant to wire transfer instructions provided by the USMS.

3. The USMS or its designee shall be authorized to deposit the Rego Park Proceeds and the Final Payment into the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

4. Receipt by the USMS of the Rego Park Proceeds by the New Payment Deadline, and the Final Payment by the Final Payment Deadline, will together constitute full satisfaction of the Defendant’s Money Judgment.

5. If the Defendant fails to remit the Rego Park Proceeds by the New Payment Deadline and the Final Payment by Final Deadline:

- i. The full amount of the outstanding Money Judgment will remain due and owing;
- ii. The Defendant will consent to the forfeiture of the Substitute Assets to the United States and will not make any claims to the Substitute Assets or assist or cooperate with any other party or entity in making any claims to the Substitute Assets; and
- iii. Pursuant to title 21, United States Code, Section 853(p), the United States

will be authorized to seek forfeiture of any other substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. This Amended Stipulation and Order constitutes the entire agreement between the Parties on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by any party or agents of any party that is not contained in this written Amended Stipulation and Order shall be enforceable.

7. The parties hereby waive all rights to appeal or to otherwise challenge or contest the validity of this Amended Stipulation and Order.

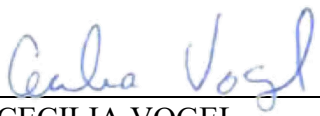
8. This Court shall retain jurisdiction in this matter to take additional action and enter further orders as necessary to implement and enforce this Amended Stipulation and Order.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

9. The signature page of this Amended Stipulation and Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument the signature pages may be transmitted by fax or by electronic file in PDF format, and such signatures shall be deemed equivalent to valid originals.

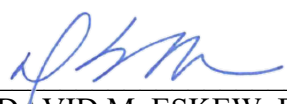
STIPULATED TO:

DAMIAN WILLIAMS
United States Attorney
Southern District of New York
United States of America

By:  10/21/24
CECILIA VOGEL DATE
Assistant United States Attorney
26 Federal Plaza
New York, New York 10278
(212) 637-1084

NERIK ILYAYEV

By:  10/19/2024
NERIK ILYAYEV DATE

By:  10/18/2024
DAVID M. ESKEW, ESQ. DATE
Attorney for Defendant
256 Fifth Ave., 5th Floor
New York, NY 10001

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 103.

SO ORDERED:

 October 21, 2024
HONORABLE GREGORY H. WOODS DATE
UNITED STATES DISTRICT JUDGE